

# SENATE BILL REPORT

## SB 6567

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As of January 25, 2008

**Title:** An act relating to the nursing facility medicaid payment system.

**Brief Description:** Creating a new nursing facility payment system.

**Sponsors:** Senators Keiser and Kohl-Welles.

**Brief History:**

**Committee Activity:** Ways & Means: 1/28/08.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Chelsea Buchanan (786-7446)

**Background:** There are about 230 nursing home facilities in Washington providing long-term care services to approximately 11,115 Medicaid clients. In 2005-07, state and federal Medicaid payments to nursing homes in Washington totaled over \$1 billion. The nursing facility payment system was first enacted into statute in 1980. It is administered by the Department of Social and Health Services (Department). Of all of the payment systems to providers contracted with the Department, it is the only one in statute. (Other providers include, for example, physicians, hospitals, managed care, adult family homes, home care providers, etc.). Since its enactment, the nursing facility payment statute has been amended several times.

The current payment system consists of seven different rate components: direct care, therapy care, support services, operations, property, financing allowance, and variable return.

- Direct care rates are based on the relative care needs of the residents also known as "case mix" or patient acuity. Direct care represents around 55 percent of the total nursing facility payment and includes payment for nursing staff wages and benefits, non-prescription medication, and medical supplies.
- Therapy care includes payments for physical, occupational, and speech therapy.
- Support services includes payments for food, food preparation, laundry, and housekeeping.
- Operations includes payment for administrative costs, office supplies, utilities, accounting, minor facility maintenance, and equipment repairs.
- Property and finance rate components pay for facility capital costs.
- Variable return does not reimburse specific costs. It is an efficiency incentive provided to nursing facilities that serve residents at the lowest cost. It is based on a

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percentage of the combined costs of direct care, therapy care, support services, and operations.

All rate components except for direct care are subject to minimum occupancy adjustments. Aside from specific cases where a "hold harmless" applies, if a facility does not meet the minimum occupancy requirements, the rates are adjusted downward.

The property and financing rate components are rebased annually. All other rate components except for variable return are rebased every two years. Variable return rates are currently frozen at the June 30, 2006 level.

#### Joint Legislative Task Force on Long-Term Care Residential Facility Payment Systems

The Joint Legislative Task Force on Long-Term Care Residential Facility Payment Systems (Task Force) was established in 2007 to review and consider recommendations on changes to the nursing facility payment system. The Task Force recommendations are as follows:

- Continue the Task Force through December 2010.

#### *Nursing Facilities Operational components*

- The Department should develop and propose a new nursing facility Medicaid payment system by December 2008.
- The current nursing home statute's operational components should sunset effective July 1, 2009.
- Target the fiscal year 2009 appropriation of \$8.8 million from General Fund-State and the federal match of \$9.4 million to nursing homes, community residential services, and Department studies.

#### *Nursing Facilities Capital Components*

- The Department should study the fair rental system and report to the Task Force by July 1, 2009.
- The Department should make capital component recommendations by December 2009.
- Capital authorization should move from a first-come, first serve system to one based on priority.

The Task Force also had a minority report. The primary objection of the minority report (related to nursing homes) was that the statute *should not* be repealed during the 2008 session, to allow more time to examine the Department's proposal. The minority report also recommended that the full 2009 appropriation be used for nursing home vendor rate increases.

The Task Force report and minority report and other related materials are available at: <http://leg.wa.gov/Joint/Committees/LTCRFPS/>.

**Summary of Bill:** The nursing facility payment statutes that are related to non capital payments are repealed effective July 1, 2009. The nursing facility payment statutes that deal with capital payments are repealed effective July 1, 2010.

The Department is required to develop a new nursing facility Medicaid payment system. The proposed new system must include:

- the use of case mix and a settlement process;

- one rate component for direct care, therapy care, and support services that are related to direct care;
- one rate component for operations and support services not related to direct care; and
- variable return is eliminated.

The Department will provide preliminary recommendations to include rules on the non-capital payment system to the Task Force by September 30, 2008 and final recommendations to the Task Force by December 31, 2008. If the 2009 Legislature does not take action on the Department's proposal or does not enact another nursing facility payment system, the Department is authorized to adopt rules and implement the proposed non-capital system.

The Department will review the costs of a fair rental system to replace the capital components of the nursing home payment system and will report to the Task Force by July 1, 2009. The Task Force will provide recommendations to the Legislature on a capital payment system by January 1, 2009.

The Joint Legislative Task Force on Long-Term Care Residential Facility Payment Systems is re-established through January 1, 2010.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except for section 6, relating to the repeal of statutes that are related to non capital payments, which takes effect July 1, 2009, and except for section 7, relating to the repeal of statutes that are related to capital payments, which takes effect July 1, 2010. Section 4 of the bill is null and void unless funded in the budget.